

COMMONWEALTH OF MASSACHUSETTS
HAMPDEN COUNTY
SUPERIOR COURT
FILED

HAMPDEN, ss.

JUL 18 2005

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL ACTION
NO. 05-676

Marie G. Grazza
CLERK-MAGISTRATE

JOHN BETTENCOURT, PLAINTIFF(S)

V.

SUMMONS

TOP-FLITE GOLF COMPANY, DEFENDANT(S)

05 CV 30179-WAF

To the above named defendant: Top-Flite Golf Company

You are hereby summoned and required to serve upon
Maurice M. Cahillane, Esq., plaintiff's attorney, whose address is
67 Market St., Springfield, MA, an answer to the complaint which is herewith served upon
you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do
so, judgment by default will be taken against you for the relief demanded in the complaint. You are also
required to file your answer to the complaint in the office of the Clerk of this court at Springfield either before
service upon the plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by rule 13(a), your answer must state as a counterclaim any claim which
you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter
of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esq., at Springfield the 14th day of
July in the year of our Lord two thousand five.

Marie G. Grazza
Clerk / Magistrate

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

FORM No.1

Attest:

Laura M. Nealon
Deputy Assistant Clerk

NOTICE TO DEFENDANT -- You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's office.

2

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on 7/14, 2005, I served a copy of the within summons, together with a copy of the original complaint, in this action, upon the within named defendant, in the following manner (See Mass. R. Civ. P. 4 (d)(1-5):

Accepted for Service of Process

By: *Jay M. Presser*

Jay M. Presser, Esq.
For Top-Flite Golf Company

Dated: July 15, 2005

N.B. TO PROCESS SERVER:

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON THE COPY SERVED ON DEFENDANT.

(
(, 2005)
)

A true copy:

Attest:

Yanya Marlow
Deputy Assistant Clerk

CLERKS OFFICE
SUPERIOR COURT
HAMPDEN COUNTY
2005 JUL 18 A 11: 26

**CIVIL ACTION
COVER SHEET**

Case 3:05-cv-30179-KPN Document 7 Filed 08/22/2005 Page 3 of 7

Docket No.(s)

65- 676

**Trial Court of Massachusetts
Superior Court Department**

County: Hampden

PLAINTIFF(S)

JOHN BETTENCOURT

DEFENDANT(S)

TOP-FLITE GOLF COMPANY

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

Maurice M. Cahillane, Esq.
Egan, Flanagan and Cohen, P.C.
67 Market Street

Springfield, MA 01103 Tel: 413-737-0260

Board of Bar Overseers Number: 069660

ATTORNEY (if known)

Jay M. Presser, Esq.
Skoler, Abbott & Presser
One Monarch Place
Springfield, MA 01144

Origin code and track Destination

Place an x in one box only:

- | | |
|--|--|
| <input checked="" type="checkbox"/> 1. F01 Original Complaint | <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231, s.104 (Before trial) (F) | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order |
| <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) | <input type="checkbox"/> 6. E10 Summary Process Appeal (X) |

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
B22	Employment Discrimination	(F)	(X) Yes () No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

- | | |
|--|----------|
| 1. Total hospital expenses | \$ |
| 2. Total Doctor expenses | \$ |
| 3. Total chiropractic expenses | \$ |
| 4. Total physical therapy expenses | \$ |
| 5. Total other expenses (describe) | \$ |

JUL - 8 2005

Subtotal

- | | |
|--|----------|
| B. Documented lost wages and compensation to date | \$ |
| C. Documented property damages to date | \$ |
| D. Reasonably anticipated future medical and hospital expenses | \$ |
| E. Reasonably anticipated lost wages | \$ |
| F. Other documented items of damages (describe) | \$ |

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

TOTAL \$

CONTRACT CLAIMS

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney *A true copy: [Signature]*

DATE: July 7, 2005

Attest:

[Signature]
Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, ss

Superior Court Division
Civil Action No. ~~65~~ 676

JOHN BETTENCOURT,)
Plaintiff)
vs.)
TOP-FLITE GOLF COMPANY)
Defendants)

HAMPDEN COUNTY
SUPERIOR COURT
FILED
JUL - 8 2005
Marie J. Magg
CLERK-MAGISTRATE

COMPLAINT AND DEMAND FOR JURY TRIAL

1. The plaintiff, John Bettencourt, is a natural person residing at 168 Windwood Drive, Ludlow, Hampden County, Massachusetts.
2. The defendant, Top-Flite Golf Company, is a Delaware corporation with a principal place of business at 425 Meadow Street, Chicopee, Hampden County, Massachusetts.
3. The plaintiff was employed by the defendant, Top-Flite, and its predecessor for over thirty years. He last served as Cost Manager until his termination on April 15, 2004. He was 49 years old at the time. He was informed that his position was being eliminated and was not offered any other position. Plaintiff performed his job well and within the employer's legitimate expectations.
4. There were other available positions in the corporation for which the plaintiff was qualified.

No. of Pmts. one
Fee Paid - \$ 240.- Cash ☒ Check ☐
Surcharge Paid - \$ 15.- Cash ☒ Check ☐
Security Fee - Paid - \$ 20.- Cash ☒ Check ☐
Received by H/K

5. At the same time, four other employees over the age of 40 in plaintiff's department were also let go.
6. Subsequently, the CEO of Top-Flite, Robert Penicka, made a public statement to the effect that he had created a younger management team by design.
7. The plaintiff was terminated because of his age.

COUNT I

8. The plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 7.
9. The defendant's actions violated 29 U.S.C., Section 626 (the Age Discrimination in Employment Act) by terminating the plaintiff because of his age. The actions of the defendant were intentional and willful.

WHEREFORE, the plaintiff prays that:

- a. That judgment be entered in his favor;
- b. That he be reinstated and awarded full compensatory damages;
- c. That he be awarded liquidated damages;
- d. That he be awarded attorneys fees, interest and costs.
- e. That the court grant such other relief as it deems just.

COUNT II

10. The plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 9.
11. Defendants violated General Laws Chapter 151B, Section 4, by terminating the plaintiff because of his age. The actions of the defendant were intentional and willful.

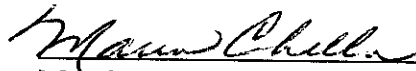
WHEREFORE, the plaintiff prays that:

- a. That judgment be entered in his favor;
- b. That he be reinstated and awarded full compensatory damages;
- c. That he be awarded multiple damages;
- d. That he be awarded attorneys fees, interest and costs.
- e. That the court grant such other relief as it deems just.

PLAINTIFF DEMANDS A TRIAL BY JURY.

THE PLAINTIFF, JOHN BETTENCOURT
BY HIS ATTORNEY

Dated: 7/8/05


Maurice M. Cahillane, Esq., BBO# 069660
EGAN, FLANAGAN AND COHEN, P.C.
67 Market Street - Post Office Box 9035
Springfield, MA 01102
(413) 737-0260; Fax: (413) 737-0121

11638-04058792669.wpd

A true copy:

Attest:


Deputy Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN SUPERIOR COURT

Case Summary

Civil Docket

HDCV2005-00676
Bettencourt v Top-Flite Golf Company

File Date	07/08/2005	Status	Disposed: transfered to other court (dtrans)
Status Date	08/03/2005	Session	A - Civil A - CtRm 6
Origin	1	Case Type	B22 - Employment Discrimination
Lead Case		Track	F

05 CV 30179-MAP

Service	10/06/2005	Answer	12/05/2005	Rule12/19/20	12/05/2005
Rule 15	12/05/2005	Discovery	05/04/2006	Rule 56	06/03/2006
Final PTC	07/03/2006	Disposition	09/01/2006	Jury Trial	Yes

PARTIES

Plaintiff John Bettencourt Active 07/08/2005	Private Counsel 069660 Maurice M Cahillane Egan Flanagan & Cohen 67 Market Street PO Box 9035 Springfield, MA 01102-9035 Phone: 413-737-0260 Fax: 413-737-0121 Active 07/08/2005 Notify
Defendant Top-Flite Golf Company Served: 07/14/2005 Served (answr pending) 07/18/2005	Private Counsel 405760 Jay M Presser Skoler Abbott & Presser PC 1 Monarch Place Suite 2000 Springfield, MA 01144 Phone: 413-737-4753 Fax: 413-787-1941 Active 08/03/2005 Notify

ENTRIES

Date	Paper	Text
07/08/2005	1.0	Complaint & civil action cover sheet filed
07/08/2005		Origin 1, Type B22, Track F.
07/18/2005	2.0	SERVICE RETURNED: Top-Flight Golf Company(Defendant).
08/03/2005	3.0	Case REMOVED this date to US District Court of Massachusetts

EVENTS

A TRUE COPY
OF THE DOCKET MINUTES
IN WITNESS WHEREOF, I hereunto
set my hand, and have caused the seal
of the Superior Court for the County
of Hampden to be affixed on this
17th day of August, 2005

Joyan M. Lewis
Deputy Assistant Clerk